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HAROLD B. WILLEY,

No. [redacted] 109

Supreme Court of the United States

UNITED STATES OF AMERICA

IRVIN B. BEWLEY, Bowling Green, Ky.,
MRS. HELEN WITCHELL, Louisville, Ky.,
ELMER SANDERS, Louisville, Ky., - - - Petitioners,

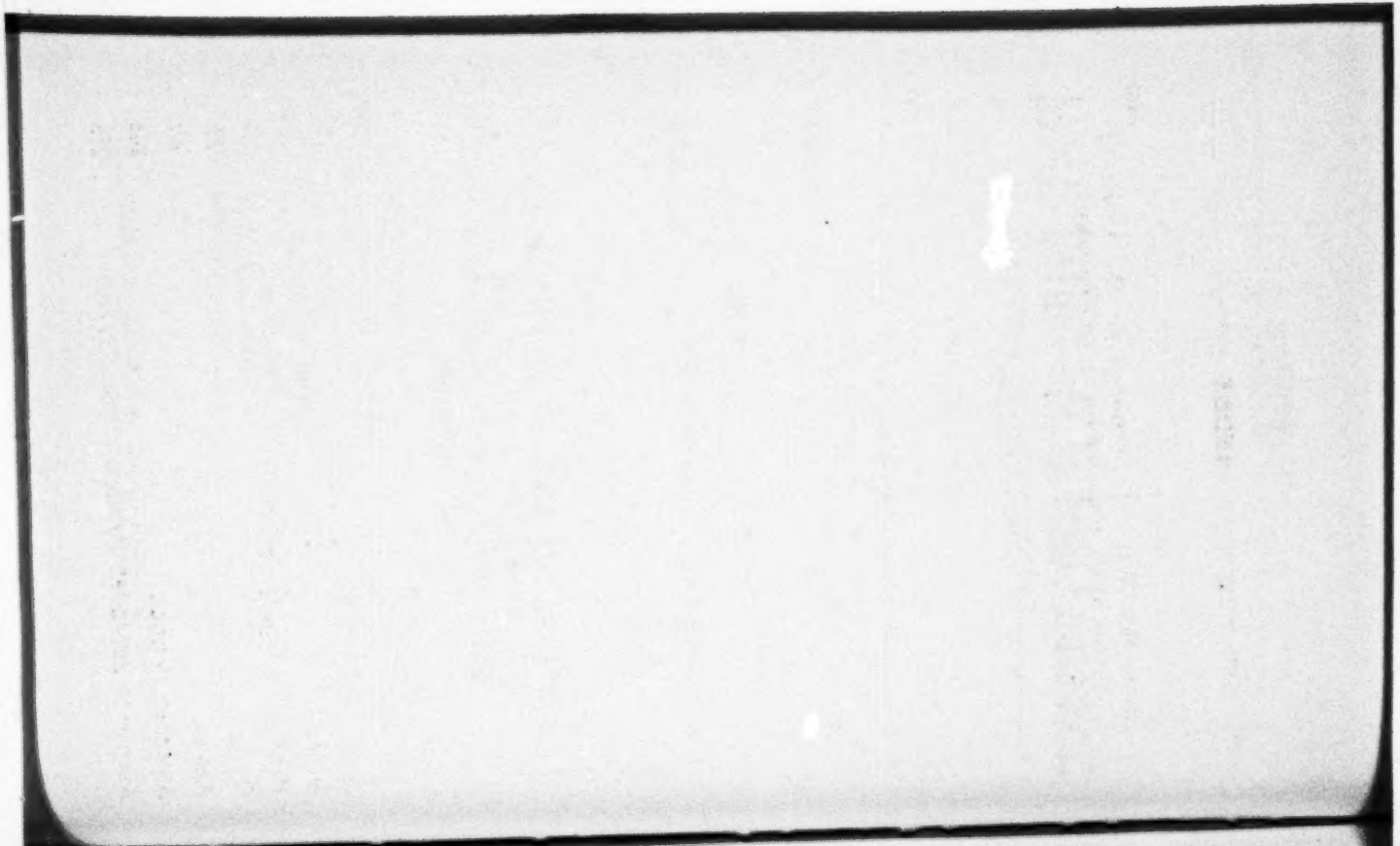
versus

JOHN HENDERSON, Bowling Green, Ky., - Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE COMMONWEALTH OF KENTUCKY, WITH APPENDIX.

RODES K. MYERS,
Myers Bldg.,
Bowling Green, Ky.,
Counsel for Petitioners.

WESTERFIELD-SONTE CO., INCORPORATED, LOUISVILLE, KY.



INDEX.

	PAGE
Petition For Writ of Certiorari to the Court of Appeals of the Commonwealth of Kentucky	1
Question Presented	4
Specification of Error to be Urged	5
Conclusion	6
Certification	6

INDEX TO APPENDIX.

	PAGE
Petition In Equity (Bewley)	1a
Order	5a
Answer	5a
Amended Petition	7a
First Amended Answer	9a
Answer to Amended Petition	11a
Petition In Equity (Witchell)	12a
Answer	15a
Amended Petition	16a
Order	18a
Petition In Equity (Sanders)	19a
Order	22a
Answer	22a
Amended Petition	24a
Answer to Amended Petition	26a

PAGE

Notice (Bewley) 27a

Deposition of Irvin B. Bewley, Plaintiff in First-Captioned Case 29a

Direct Examination by Mr. Rodes K. Myers..... 30a

Cross-examination by Mr. Marshall Funk..... 32a

Deposition of Mrs. Helen Witchell, Plaintiff in Second-Captioned Case 38a

Direct Examination by Mr. Rodes K. Myers..... 38a

Cross-examination by Mr. Marshall Funk..... 39a

Redirect Examination by Mr. Myers..... 41a

Recross-examination by Mr. Funk..... 41a

Deposition of Elmer Sanders, Plaintiff in the Last Captioned Suit 42a

Direct Examination by Mr. Rodes K. Myers..... 42a

Cross-examination by Mr. Marshall Funk..... 43a

Appendix A—Opinion of the Court (Warren Circuit Court) 45a

Petition For Rehearing..... 57a

Questions of Law..... 58a

Conclusion 62a

Appendix B—Opinion of the Court by Judge Cammack —Affirming In Part and Reversing In Part On Appeal, and Affirming On Cross-appeal..... 64a

Supreme Court of the United States

UNITED STATES OF AMERICA

IRVIN B. BEWLEY, Bowling Green, Ky.,
MRS. HELEN WITCHELL, Louisville, Ky.,
ELMER SANDERS, Louisville Ky., - - *Petitioners,*

v.

JOHN HENDERSON, Bowling Green, Ky., *Respondent.*

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE COMMONWEALTH OF KENTUCKY.

To the Honorable, the Chief Justice and the Associate Justices of the Supreme Court of the United States:

I.

This is a petition by Irvin B. Bewley, a resident of Bowling Green, Kentucky, Mrs. Helen Witchell, a resident of Louisville, Kentucky, and Elmer Sanders, a resident of Louisville, Kentucky, for this Court's writ of certiorari to review a judgment and opinion of the Court of Appeals, which is the court of last resort in the Commonwealth of Kentucky, and on a case in which the petitioners have exhausted all relief provided for them in the courts of the Commonwealth of Kentucky. The final date of the judgment of the highest court of the Commonwealth of Kentucky was March 5, 1954, under the following caption in the Court of Appeals of Kentucky:

COURT OF APPEALS OF KENTUCKY
File No. V-13-53.

Minnie Henderson's Admr.
(John Henderson), Indv., - - - Appellant,

v. APPEAL FROM WARREN CIRCUIT COURT, HON. JOHN B. RODES, JUDGE.

Irvin B. Bewley, - - - - - - - Appellee.

Helen Witchell, - - - - - - Appellant,

v. APPEAL FROM WARREN CIRCUIT COURT, HON. JOHN B. RODES, JUDGE.

Minnie Henderson's Admr.
(John Henderson), Indv., - - - Appellee.

Elmer Sanders, - - - - - - Appellant,

v. APPEAL FROM WARREN CIRCUIT COURT, HON. JOHN B. RODES, JUDGE.

Minnie Henderson's Admr.
(John Henderson), Indv., - - - Appellee.

II.

The jurisdiction of this Court to review the questions herein presented is invoked under 28 U. S. C. A., Sec. 1257(3) (June 25, 1948, c. 646, 62 Stat. 929). Also Tit. 28, Sec. 2103, U. S. C. A., and Sec. 2106, U. S. C. A. The judgment of the Court of Appeals of Kentucky on a petition for rehearing was entered on March 5, 1954, and became final on March 9, 1954, upon the

denial of the petition for rehearing and the forwarding of the mandate to the Warren Circuit Court, Bowling Green, Kentucky. The Warren Circuit Court rendered a judgment, a certified copy of which is in the printed record of the Court of Appeals attached hereto marked "Appendix I". The Court of Appeals of Kentucky entered an opinion affirming in part and reversing in part the judgment of the Warren Circuit Court and a copy of which is in the printed record of the Court of Appeals attached hereto marked "Appendix I." Pursuant thereto, the Warren Circuit Court, under a mandate from the Court of Appeals, entered a judgment, a certified copy of which is in the printed record of the Court of Appeals attached hereto marked "Appendix I."

The question involved, is the validity and the irrevocable status of the payees of "E" bonds issued by the Department of Treasury, pursuant to the provisions of the Second Liberty Bond Act as amended, Treasury Department Circular 653, Third Revision, and under the Treasury Regulations relative to the issuance of savings bonds and on page 14 thereof known as Sub-part L—Two Names—Co-ownership Form, and known as Section 315.45 and which under Subsection C thereof reads as follows:

> "(c) *Payment or reissue after the death of one Co-owner*—If either coowner dies without the bond having been presented and surrendered for payment or authorized reissue, the surviving coowner will be recognized as the sole and absolute owner of the bond and payment or reissue, as

though the bond were registered in his name alone, will be made only to such survivor. If the survivor requests reissue, he must present proof of the death of the other coowner. If a coowner dies after he has presented and surrendered the bond for payment, payment of the bond or check, if one has been issued, will be made to his estate (see subpart N)."

III.

QUESTION PRESENTED.

Under the sections of the United States Statutes and under the ruling that regulations of the Treasury Department have the full force and effect of Federal law, does a State Court have the right or jurisdiction to invalidate a contract made by a purchaser with the Department of Treasury of an "E" bond, which contract with the Government provided that such bonds should be made payable to the purchaser thereof (to-wit, in this instance, Mrs. Minnie Henderson) or to another person, which in this case are the petitioners and deny to the surviving payees, who, under said bonds, were co-owners, the right to the possession of said bonds or the proceeds thereof and, by a judgment, order such surviving co-owners to sign said bonds so that they can be cashed or be subjected to proceedings for contempt of court, by failing to so do?

IV.

SPECIFICATION OF ERROR TO BE URGED.

The Court of Appeals of the Commonwealth of Kentucky erred in holding that the petitioners had no interests in E bonds in which they were the irrevocable co-owners with Mrs. Minnie Henderson and on which bonds they were respectively designated as co-owners and upon the death of Mrs. Minnie Henderson became the survivors; that the action of said Court of Appeals of Kentucky invalidated a valid contract with the Department of Treasury of the United States of America over which it possessed no jurisdiction. The respective interests of the petitioners in said "E" bonds to be determined by this question are: Co-owner and survivor, Irvin B. Bewley, fifteen $1,000 "E" bonds; Co-owner and survivor, Mrs. Helen Witchell, two $1,000 "E" bonds; and Co-owner and survivor, Elmer Sanders, three $1,000 "E" bonds.

V.

CONCLUSION.

WHEREFORE, the petitioners pray that this petition for a writ of certiorari be granted and that this Court's writ of certiorari issue to the Court of Appeals of Kentucky for the purpose of reviewing the judgment and opinion and the question hereinbefore specified.

RODES K. MYERS,
Myers Bldg.,
Bowling Green, Ky.,
Counsel for Petitioners.

This is to certify that I am a member of the Bar of the Supreme Court of the United States and that copies of this Petition for Writ of Certiorari have been forwarded by mail to Honorable Marshall Funk, Attorney for Respondent, Bowling Green, Kentucky. This April 5, 1954.

RODES K. MYERS,
Counsel for Petitioners.